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January 22, 2001

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station, Second Floor
Boston, Massachusetts 02110

COMMENTS OF THE COMMONWEALTH OF MASSACHUSETTS
DIVISION OF ENERGY RESOURCES; D. T. E. 00-47-C

Pursuant to G.L. c.25A, § 11G (inserted by the 1997 Electric Industry Restructuring Act), the Division of Energy Resources (DOER) is empowered to oversee and coordinate ratepayer-funded

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energy efficiency programs mandated by G.L. c.25, § 19. In addition, pursuant to 225 CMR 11.04, DOER commits itself to file a report with the Department of Telecommunications and Energy (DTE) as to the consistency of a municipal aggregator's energy efficiency plans with the energy efficiency goals of the Commonwealth. These comments constitute the fulfillment of these regulatory and statutory obligations regarding the Energy Plan proposed by the Cape Light Compact (Compact), and for their budget for the year 2001.

Under the statute and the regulations promulgated to further its implementation, the DTE and the DOER share responsibility for regulating ratepayer-funded energy efficiency programs. With respect to the division's responsibilities the Act directs DOER to oversee and coordinate ratepayer-funded energy efficiency programs. Furthermore, DOER is charged with achieving certain goals, including:

- ensuring that energy efficiency funds are allocated equitably among customer classes;
- ensuring that there will be adequate support for "lost opportunity" efficiency programs in areas such as new construction, remodeling, and replacement of worn-out equipment;
- giving due emphasis to statewide market transformation

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programs in order to systematically eliminate market barriers to energy efficiency goods and services; and

- providing weatherization and efficiency services to low-income customers.

Findings:

DOER acknowledges the effort that the Compact has made to develop its Energy Plan in consultation with DOER. DOER notes for the record that representatives of the Compact and DOER staff have discussed the Energy Plan on several occasions. The Compact staff has solicited DOER's views and have been open to modifying the Energy Efficiency Plan accordingly. In our view, such collaboration clearly satisfies the regulatory requirement that the Compact develop this plan "in consultation" with DOER.

DOER has now received and reviewed the Compact Energy Efficiency Plan. The Division of Energy Resources finds that the Compact's Energy Efficiency Plan is substantially consistent with the energy efficiency goals of the Commonwealth.

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DOER's Opinion regarding the timing of energy efficiency Administration:

The Compact and other proposed aggregations such as Haverhill/Easthampton (Cities) have sought DOER's interpretation of the Restructuring statute regarding when such energy efficiency monies will be made available to the aggregation. (1) More than two years ago, DOER stated its position to the Department as follows:

DOER suggests that the requirement of M.G.L. chapter 164, section 134(b) "...establishing a load aggregation plan...", is satisfied only when all of the following conditions have been met:

- Authorization of town meeting or city council with approval of the mayor or city manager to proceed with municipal aggregation;
- Consultation with DOER prior to submission of the aggregation plan to the Department;

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- Filing the aggregation plan with the Department for its review and approval;
- Holding of a public hearing by the Department; and
- Approval of the aggregation plan by the Department.

DOER believes that a municipality must meet the requirements stated above regarding "establishing" an aggregation plan prior to or concurrent with receiving DTE approval to provide energy efficiency services to its customers. While DOER acknowledges that the meaning of "establishing" as it is used in the statute is not explicitly defined as meeting these threshold requirements, DOER believes that common sense and the dictates of sound public policy can only lead to the conclusion that these are the minimum requirements that must be met. "(2)

DOER notes that the Compact has met all five of these criteria. While the Compact is not yet furnishing electric power to members of the aggregation through a supply contract, the elements of that supply contract are comprehensive and detailed. DOER believes that the approval by the Department of any aggregation plan should include a requirement that the proposed aggregator furnish a model energy supply contract setting forth the reciprocal binding commitments between the supplier and the

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aggregation. The Compact has provided such a document.

DOER recognizes that it is for the Department to determine whether ratepayer interests would be best served by maintaining administration of the efficiency funds with the investor owned utility or by relinquishing control of the funds to the Municipal Aggregator. We assume the Department will consider such factors as economies of scale and the size of the load being aggregated, among other things. The Department may well consider that the Compact represents a contiguous geographic area of 22 municipalities and approximately 180,000 ratepayers within a single utility service territory. These realities may be factors advancing the proposition that the Compact could assume control of Energy Efficiency funds from the local distribution company and expend them in an efficient and productive manner.

As always, DOER is poised to work with both the Department and the Compact to achieve a common goal -- the successful operation of a Municipal Aggregation program. We stand ready to offer additional assistance that will advance these efforts.

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Sincerely,

Bruce Ledgerwood

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1 DTE 99-93/99-103

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2 Letter of David L. O'Connor, Commissioner of DOER, to Ms. Janet Besser, Chairman, DTE, December 9, 1998